



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Brian D. Zelickson, et al.

Group Art Unit: 3736

Serial No.: 10/633,820

Confirmation No.: 7509

Filed: August 4, 2003

Examiner: John Lacyk

**For: DEVICE AND METHOD FOR
TREATMENT OF GASTROESOPHAGEAL
REFLUX DISEASE**

TERMINAL DISCLAIMER UNDER 37 CFR 1.321(c)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

BOSTON SCIENTIFIC CORPORATION, is the owner of all rights, title, and interest in and to the above-identified application (hereinafter, the "immediate application") pursuant to an assignment recorded in the Patent and Trademark Office to BOSTON SCIENTIFIC CORPORATION on June 28, 2004 at Reel 015503, Fame 0060.

The evidentiary documents have been reviewed, and, as of the signing of this Terminal Disclaimer, to the best of assignee's and the undersigned's knowledge and belief, BOSTON SCIENTIFIC CORPORATION, is still the owner of all such rights, title, and interest. BOSTON SCIENTIFIC CORPORATION, hereby disclaims, except as provided below, the terminal part of any patent granted on the immediate application that would extend beyond the term of U.S. Patent 6,604,004, and hereby agrees that any patent so granted on the immediate application shall

10633820

11/22/2005 MGEBRM1 00000005 502518

130.00 DA
01 FC:1614

be enforceable only for and during such period that the legal title to said patent granted on the immediate application shall be the same as the legal title to Patent No. 6,604,004, and that this agreement is to run with any patent granted on the immediate application and be binding upon the grantee, its successors, and/or assigns.

In making the above disclaimer, BOSTON SCIENTIFIC CORPORATION, does not disclaim the terminal part of any patent granted on the immediate application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of U.S. Patent No. 6,604,004 in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I, David T. Burse, of the law firm of Bingham McCutchen LLP, represent that I am a representative authorized to make this disclaimer on behalf of BOSTON SCIENTIFIC CORPORATION.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements are made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,
BINGHAM MCCUTCHEN LLP

Dated: November 17, 2005

By 
David T. Burse
Reg. No. 37,104

BINGHAM MCCUTCHEN LLP
Three Embarcadero, Suite 1800
San Francisco, CA 94111-4067
(650) 849-4400
(650) 849-4800 Fax